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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/773,925

02/06/2004

Brien E. Pierpont

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8476

34082 7590 06/30/2008

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EXAMINER

BOUCHELLE, LAURA A

ART UNIT

PAPER NUMBER

3763

MAIL DATE

DELIVERY MODE

06/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pierpont (USPN 5,484,412) in view of Crittenden et al (USPN 4,988,356). Regarding claims 1 and 5-10, Pierpont discloses an elongated hollow anchoring catheter; a hollow guiding catheter; first, second and third balloons with independent inflation; a treatment catheter; a guidewire; and blood by-pass means. Pieront fails to disclose that the treatment catheter extends through an opening in the tubular wall of the anchoring catheter. See figures 1-5

Crittenden teaches a catheter and guidewire exchange system that includes the teaching of introducing an elongated element (guidewire) through a side slit opening in a catheter. The catheter further includes a guide member that slides along the length of the catheter in order to facilitate opening and re-sealing of the slit. See figures 1 and 10.

At the time of the invention, it would have been obvious to incorporate the teaching of using a side slit opening into the invention of Pierpont and specifically into the tubular wall of the anchoring catheter. Side slit openings are well known in the art and are used in order to enable the medical technician to introduce and remove additional devices into and out of indwelling catheters. The advantages are well known in the art and result in improved ease of use and safety to the patient. One skilled in the art would have used these known motivations to incorporate the slit and guide member of Crittenden into the invention of Pierpont.

Response to Arguments

2. Applicant's arguments filed 7/2/07 have been fully considered but they are not persuasive. Applicant argues that Crittenden does not teach an elongated treatment catheter extending through an opening in a tubular wall of an anchoring catheter. Crittenden is not relied upon to teach an elongated treatment catheter extending through an opening in a tubular wall of an anchoring catheter. The elongated treatment catheter and the anchoring catheter are taught by Pierpont. Crittenden is only relied upon to teach that it is known in the art for an elongate member to extend through a slit in a catheter.

3. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it is generally known by one of ordinary skill in the art that utilizing a slit as an opening for one elongate member to pass out of another is a way of improving function and ease of use of the device.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAURA A. BOUCHELLE whose telephone number is (571)272-2125. The examiner can normally be reached on Monday-Friday 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 517-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Laura A Bouchelle
Examiner
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/L. A. B./

Examiner, Art Unit 3763

/Nicholas D Lucchesi/

Supervisory Patent Examiner, Art Unit 3763